

JAMES E. JOHNSON  
Corporation Counsel

THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
100 CHURCH STREET  
NEW YORK, NY 10007

CAROLYN K. DEPOIAN  
Senior Counsel  
Phone: (212) 356-2358  
Fax: (212) 356-3509  
cdepoian@law.nyc.gov

September 14, 2020

**BY ECF**

Honorable Katharine H. Parker  
United States Magistrate Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

**MEMO ENDORSED**

Re: Curtis McDaniel v. City of New York et al., 19 Civ. 7680 (AJN) (KHP)

Your Honor:

I am the attorney in the office of James E. Johnson, Corporation Counsel of the City of New York, assigned to the above referenced matter.<sup>1</sup> This Office, writing as an Interested Party in this matter, respectfully requests that the Court adjourn the upcoming initial case management conference scheduled for September 22, 2020, until such time that the only two individual defendants in this matter have been served and have responded to plaintiff's Amended Complaint. As plaintiff is currently incarcerated, this Office was unable to seek his consent to this request. However, this Office believes that plaintiff will incur no prejudice should this request be granted.

By way of background, on January 22, 2020, plaintiff filed a Second Amended Complaint in this matter naming several defendants.<sup>2</sup> See Civil Docket Sheet Entry No. 14. On February 14, 2020, the Court dismissed plaintiff's claims as to all defendants except New York City Police Department ("NYPD") Officers Nicholas Evangelista and Juan Febres. See Civil Docket Sheet Entry No. 17. Construing Plaintiff's Second Amended Complaint liberally,

---

<sup>1</sup> Please take further notice that this case is assigned to Assistant Corporation Counsel Jessica C. Engle, who is presently awaiting admission to the Southern District of New York and is handling this matter under my supervision. Ms. Engle may be reached directly at jengle@law.nyc.gov.

<sup>2</sup> Plaintiff has multiple cases pending in the Southern District of New York. Apparently, two of his cases were inadvertently combined into one action. See Civil Docket Sheet Entry Nos. 10–11. On August 14, 2019, the Court issued an Order clarifying the situation. See Civil Docket Sheet Entry No. 1.

plaintiff appears to bring claims of false arrest and malicious prosecution against these two officers. See Civil Docket Sheet Entry No. 14.

On June 26, 2020, upon request of this Office, the initial conference in this matter originally scheduled for July 6, 2020, was adjourned due to the lack of any served defendants. See Civil Docket Sheet Entry No. 30. Upon information and belief, and according to the Civil Docket Sheet, defendants Evangelista and Febres still have not been served. Accordingly, this Office will have no one to speak for at the upcoming initial conference. This Office thus respectfully requests that the upcoming conference be adjourned until such time that the individual defendants in this matter have been served and have responded to plaintiff's Amended Complaint. At that point, the defendants will be able to meaningfully participate in a conference before the Court.

Thank you for your consideration.

Respectfully submitted,

Carolyn K. Depoian /S/

Carolyn K. Depoian  
Senior Counsel

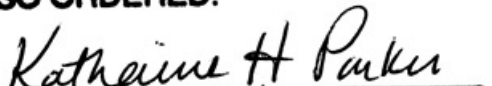
cc: **BY FIRST-CLASS MAIL**

Curtis McDaniel  
Plaintiff Pro Se  
#20A0242  
Bare Hill C.F.  
Caller Box 20  
181 Brand Rd.  
Malone, NY 12953

**The Initial Case Management Telephone Conference previously scheduled for Tuesday, September 22, 2020 at 10:00 a.m. is hereby adjourned to Tuesday, December 15, 2020 at 10:00 a.m. Counsel for the Defendants are directed to call the court's teleconference number with the Plaintiff on the line. Please dial (866) 434-5269, Access code: 4858267.**

**Summonses for defendants Nicholas Evangelista, Julian Febres were issued on 02/18/2020. The USM-SDNY are hereby directed to serve the Second Amended Complaint (ECF #14) on these defendants. The Clerk of Court is requested to mail a copy of this endorsement to the Plaintiff.**

**SO ORDERED:**

  
**HON. KATHARINE H. PARKER  
UNITED STATES MAGISTRATE JUDGE**

**09/15/2020**